

Message Text

PAGE 01 STATE 076379
ORIGIN L-03

INFO OCT-01 EUR-12 ISO-00 ACDA-12 DOE-15 SOE-02 NRC-05
OES-07 PM-05 IO-13 DODE-00 SIG-03 CIAE-00 INR-10
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PM/NP - RLOCKE

IO/SCT -AJILLSON

EUR/CE -RCASAGRANDE

EUR/WE JDOBBINS

EUR/SOV GMATTHEWS

EUR/NE-JSHUMATE

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DOD/OATSD (AE) POPPENHEIM

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TO AMEMBASSY BONN PRIORITY

AMEMBASSY LONDON PRIORITY

AMEMBASSY MOSCOW PRIORITY

AMEMBASSY PARIS PRIORITY

INFO AMEMBASSY BRUSSELS

AMEMBASSY THE HAGUE

AMEMBASSY OTTAWA

AMEMBASSY VIENNA

C O N F I D E N T I A L STATE 076379

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PAGE 02 STATE 076379

BRUSSELS FOR USNATO, USEEC, VIENNA FOR USIAEA

E.O. 11652: GDS

TAGS: PARM, TECH, MNUC, ENRG

SUBJECT: CONVENTION ON PHYSICAL PROTECTION OF
NUCLEAR MATERIAL

REF: BONN 4901 (NOTAL)

1. U.S. IS PREPARING FOR SECOND MEETING (APRIL 10-20, 1978) ON PHYSICAL PROTECTION CONVENTION. ONE OF MOST IMPORTANT ISSUES THAT MUST BE RESOLVED IS SCOPE OF APPLICATION OF CONVENTION, AND WE HOPE TO MAKE SOME PROGRESS ON THIS ISSUE BEFORE NEXT MEETING. THE CONVENTION WAS DRAFTED FOR APPLICATION TO CIVILIAN NUCLEAR MATERIALS, BUT AT THE FIRST MEETING ON THIS CONVENTION (NOVEMBER 1977) A NUMBER OF COUNTRIES TOOK POSITION THAT NUCLEAR MATERIAL IN MILITARY USE NEEDED TO BE ADDRESSED IN SOME FASHION, RATHER THAN TOTALLY EXCLUDED FROM SCOPE OF CONVENTION. THIS TELEGRAM REQUESTS PROMPT CONSULTATIONS, AS MORE SPECIFICALLY SET FORTH BELOW, TO DEVELOP ACCEPTABLE APPROACH TO RESOLVING THIS ISSUE.

2. DRAFT CONVENTION (WHICH IS A U.S. INITIATIVE) IS INTENDED TO COVER CIVILIAN NUCLEAR MATERIAL IN USE, STORAGE AND TRANSIT. UNDER DRAFT, PARTIES WOULD AGREE TO (A) HAVE ADEQUATE PHYSICAL PROTECTION DOMESTICALLY,

(B) REQUIRE SUCH PROTECTION DURING INTERNATIONAL TRANSPORTATION AS A CONDITION OF IMPORT OR EXPORT, (C) ASSIST EACH OTHER IN RECOVERY OF LOST OR STOLEN MATERIAL, AND CONFIDENTIAL

PAGE 03 STATE 076379

(D) ESTABLISH OFFENSES DEALING, E.G., WITH THEFT OF NUCLEAR MATERIAL, SOME OF THESE OFFENSES TO BE SUBJECT TO EXTRADITION.

3. DRAFT CONVENTION WAS CIRCULATED BY IAEA DG ON JUNE 16, 1977. ARTICLE 2 PROVIDES: "THIS CONVENTION SHALL APPLY TO ALL NUCLEAR FACILITIES, NUCLEAR MATERIAL, AND NUCLEAR TRANSPORTS, OTHER THAN THOSE FACILITIES, MATERIALS, OR TRANSPORTS USED FOR MILITARY PURPOSES." WHILE NOVEMBER 1977 MEETING DID NOT ACHIEVE AGREEMENT ON ANY REDRAFT OF THIS ARTICLE, A VARIETY OF COMMENTS WERE MADE (INDICATED ON PAGES 5-6 OF DOCUMENT CPNM/27, CIRCULATED UNDER COVER OF DG DECEMBER 7, 1977 LETTER). GENERALLY, THE FRG AND ARGENTINA, SUPPORTED BY SEVERAL OTHERS, URGED THAT A PROVISION BE INSERTED MAKING CLEAR THAT NUCLEAR MATERIAL IN USE FOR MILITARY PURPOSES IS AFFORDED SOME DEGREE OF PHYSICAL PROTECTION. ARGENTINA, SUPPORTED BY OTHER LATIN AMERICAN DELEGATIONS, FURTHER ARGUED THAT IT WAS INCONGRUOUS, THAT, E.G., THEFT OF CIVILIAN NUCLEAR MATERIAL WOULD BE EXTRADITABLE OFFENSE UNDER CONVENTION, WHILE THEFT OF A WEAPON WOULD NOT BE. THUS, ARGENTINE ARGUED THAT, AS A MINIMUM, OFFENSES AGAINST NUCLEAR MATERIAL IN MILITARY USE SHOULD BE COVERED BY SYSTEM OF THE CONVENTION -- EVEN IF NO SUBSTANTIVE STANDARDS FOR THE PHYSICAL PROTECTION OF SUCH MATERIAL ARE SET FORTH IN THE CONVENTION.

4. USG HAS BEEN EXTREMELY CONCERNED ABOUT INCLUDING MILITARY NUCLEAR MATERIAL IN AMBIT OF THIS CONVENTION. NUCLEAR MATERIAL USED FOR MILITARY PURPOSES IS SUBJECT TO INDEPENDENT SYSTEM OF PROTECTION AND MUCH TIGHTER PHYSICAL SECURITY THAN IS NUCLEAR MATERIAL IN CIVILIAN USE. WE HAVE BEEN CONCERNED THAT ANY STANDARDS ESTABLISHED BY CONVENTION RELATIVE TO PHYSICAL PROTECTION OF MILITARY MATERIAL COULD LEAD TO REQUESTS FOR INFORMATION CONCERNING MILITARY NUCLEAR ACTIVITIES UNDER CONFIDENTIAL

PAGE 04 STATE 076379

PRETEXT OF ENSURING COMPLIANCE WITH THOSE STANDARDS. HOWEVER, USG IS EXTREMELY INTERESTED IN SUCCESSFUL NEGOTIATION OF CONVENTION, AND WE ARE ANXIOUS TO WORK OUT A SOLUTION TO THIS PROBLEM WHILE PROTECTING U.S. INTERESTS.

5. FRG HAS RECENTLY PROPOSED NEW LANGUAGE FOR ARTICLE 2 (CONTAINED REFTEL). THEIR PROPOSAL IS TO REVISE ARTICLE 2 TO READ: "WHEN NUCLEAR MATERIAL IN USE FOR MILITARY PURPOSES IS WITHIN THE RESPONSIBILITY OF THE

MILITARY PROTECTION SYSTEM, THE PROVISIONS OF THIS CONVENTION SHALL NOT APPLY." WHILE REFTEL INDICATES FRG FOREIGN OFFICE AND DEFENSE MINISTRY BOTH BELIEVE THIS TEXT ACCOMMODATES U. S. CONCERNS, WE DO NOT FIND IT ACCEPTABLE. AS U. S. DEL INDICATED TO FRG DEL TO NOVEMBER MEETING, IN U. S. NUCLEAR MATERIAL USED FOR MILITARY PURPOSES IS NOT ALWAYS UNDER THE RESPONSIBILITY OF THE MILITARY OR THE "MILITARY PROTECTION SYSTEM". THUS A DISTINCTION BASED ON WHETHER THE MATERIAL IS HANDLED BY OR SUBJECT TO MILITARY JURISDICTION WILL NOT WORK.

6. WE BELIEVE AN APPROPRIATE WAY TO DEAL WITH CONCERN THAT CONVENTION RECOGNIZE THAT MILITARY PURPOSE NUCLEAR MATERIAL IS SUBJECT TO PHYSICAL PROTECTION WOULD BE INSERTION OF A NEW PREAMBULAR PARAGRAPH. SUCH A PARAGRAPH COULD PROVIDE: "RECOGNIZING THAT STRINGENT PHYSICAL PROTECTION MEASURES ARE ALREADY BEING APPLIED TO NUCLEAR MATERIAL USED FOR MILITARY PURPOSES." IF NECESSARY DURING NEGOTIATION, WE COULD ADD LANGUAGE TO THIS PREAMBULAR PARAGRAPH RECOGNIZING THAT COOPERATIVE ARRANGEMENTS ALREADY EXIST AMONG CONCERNED STATES FOR CONFIDENTIAL

PAGE 05 STATE 076379

DEALING WITH PROBLEMS INVOLVING NUCLEAR MATERIAL USED FOR MILITARY PURPOSES. USG BELIEVES INSERTION OF NEW PREAMBULAR PARAGRAPH PROVIDES MUCH MORE ACCEPTABLE WAY TO DEAL WITH PROBLEM OF MILITARY PURPOSE NUCLEAR

MATERIAL THAN DOES REVISION OF ARTICLE 2 ALONG THE LINES SUGGESTED BY FRG. WE ARE HOPEFUL THAT IF THIS APPROACH IS ACCEPTABLE TO NUCLEAR-WEAPONS-STATES AND FRG, IT WOULD RELIEVE PRESSURE FROM NETHERLANDS AND ARGENTINES AND OTHERS FOR ADDITIONAL CHANGES OF DRAFT CONVENTION TO DEAL WITH MILITARY PURPOSE NUCLEAR MATERIAL.

7. FOR BONN: WE REQUEST APPROACH BE MADE BOTH TO FOREIGN OFFICE BY EMBASSY AND TO MINISTRY OF DEFENSE BY MILITARY ATTACHE. DR. STEPPAN OF THE FEDERAL FOREIGN OFFICE ATTENDED NOVEMBER 1977 MEETING. YOU SHOULD INDICATE OUR SERIOUS DIFFICULTIES WITH FRG PROPOSAL CONTAINED REFTEL, AND SHOULD SUGGEST APPROACH OF PRE-AMBULAR PARAGRAPH OUTLINED ABOVE.

8. FOR MOSCOW: DURING NOVEMBER MEETING, SOVIETS WERE PARTICULARLY CONCERNED ABOUT NOT MAKING ANY CONCESSIONS ON THE SUBJECT OF COVERAGE OF MILITARY PURPOSE NUCLEAR MATERIAL. YOU SHOULD CONSULT WITH APPROPRIATE FOREIGN MINISTRY OFFICIALS TO INDICATE THAT USG BELIEVES SOME ACCOMMODATION ON THIS ISSUE WILL HAVE TO BE MADE IN ORDER TO ACHIEVE CONVENTION, IN WHICH BOTH THE U.S. AND USSR HAVE STRONG INTEREST. YOU MAY INFORM SOVIETS OF

FRG PROPOSAL AND SOLICIT THEIR SUPPORT FOR USG ALTERNATIVE, I.E., FOR PREAMBULAR PARAGRAPH. YOU SHOULD EMPHASIZE THAT PREAMBULAR PARAGRAPH AS DRAFTED BY USG IS A MERE RECOGNITION OF FACT, AND PROVIDES NO OPENING FOR COVERAGE IN CONVENTION OF MILITARY PURPOSE NUCLEAR MATERIAL.

9. FOR LONDON: WHILE WE DO NOT BELIEVE UK WILL HAVE CONFIDENTIAL

PAGE 06 STATE 076379

SERIOUS PROBLEM WITH APPROACH SUGGESTED ABOVE, WE REQUEST YOU INFORM THEM OF FRG PROPOSAL AND U. S. ALTERNATIVE. WE NOTE THAT AT NOVEMBER MEETING, UK DELEGATION SEEMED POORLY PREPARED, WITH UK BRIEF HAVING BEEN DRAFTED BY OFFICIALS WHO DID NOT SEEM SENSITIVE TO APPROACH TAKEN TO PROBLEM OF PHYSICAL SECURITY IN LONDON NUCLEAR SUPPLIERS' GROUP GUIDELINES. FYI: UK WAS NOT OF SIGNIFICANT HELP TO USG DURING NOVEMBER MEETING; UK VIENNA REPRESENTATIVE SPENT MUCH TIME SEEKING REVISIONS IN HIS INSTRUCTIONS TO PERMIT MORE FORTHCOMING APPROACH TOWARD CONVENTION RATHER THAN EXTREMELY CRITICAL POSTURE WHICH HAD BEEN INITIALLY CONTAINED IN BRIEF. WE THUS THINK IT IMPORTANT THAT APPROPRIATE FOREIGN OFFICE OFFICIALS BE CONTACTED. END FYI.

10. FOR PARIS: WHILE WE DO NOT REALLY EXPECT GOVERNMENT SUPPORT ON THIS CONVENTION, GIVEN THEIR GENERAL ATTITUDES, IN VIEW OF THEIR ADHERENCE TO SUPPLIERS' GUIDE-

LINES WE WOULD HOPE THAT THEY WOULD AT LEAST NOT RPT
NOT ASSUME NEGATIVE POSTURE. WE HAVE NOT YET RECEIVED
RESPONSE TO STATE 18745 WHICH REQUESTED MORE GENERAL
APPROACH TO GOF ON THIS CONVENTION. WE FURTHER BELIEVE
THAT IT WOULD BE APPROPRIATE TO CONSULT WITH FRENCH ON
SUBJECT OF COVERAGE OF MILITARY PURPOSE NUCLEAR
MATERIALS, GIVEN THEIR STATUS AS NUCLEAR WEAPON STATE.
YOU ARE THUS REQUESTED TO DISCUSS THIS ADDITIONAL
QUESTION WITH THEM AND REPORT REACTIONS.

11. FOR MOSCOW, LONDON AND PARIS: SINCE NEW PREAMBULAR
PARAGRAPH PROPOSED ABOVE MAY NOT BE SUFFICIENT TO ENABLE
US TO NEGOTIATE AGREEMENT ON CONVENTION IN VIEW OF
PRESSURES FOR ADDITIONAL COVERAGE, WE THINK IT IMPORTANT
TO OBTAIN AND COORDINATE VIEWS NOW BECAUSE THERE MAY BE
CONFIDENTIAL

PAGE 07 STATE 076379

INSUFFICIENT TIME DURING MEETING. AS INDICATED PARA-
GRAPH 3, ARGENTINA AND OTHERS HAVE RAISED ISSUE OF
EXPANDING COVERAGE OF OFFENSES UNDER DRAFT CONVENTION.
WE WOULD APPRECIATE ANY VIEWS ON THIS ISSUE. FYI: AS
YET, USG HAS NOT DEVELOPED POSITION ON THIS ISSUE AND
YOU SHOULD NOT INDICATE FLEXIBILITY. END FYI.

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<< END OF DOCUMENT >>

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